

 <b>KENTUCKY CORRECTIONS</b> Policies and Procedures	Policy Number	Total Pages
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## I. DEFINITIONS

“Abscond” means to be absent from the offender’s approved place of residence or employment with the intent of avoiding supervision.

“Arrival” means to report to the location and officials designated in reporting instructions given to an offender at the time of the offender’s departure from a sending state under an interstate compact transfer of supervision.

“Commissioner” or “Compact commissioner” is defined in KRS 439.561(1), Article II(E).

“Compliance” means that an interstate compact offender is abiding by all terms and conditions of supervision, including payment of restitution, family support, fines, court costs or other financial obligations imposed by the sending state.

“Deferred sentence” means a sentence the imposition of which is postponed pending the successful completion by the offender of the terms and conditions of supervision ordered by the court.

“Detainer” means an order to hold an offender in custody.

“Discharge” means the final completion of the sentence that was imposed on an offender by the sending state.

“Interstate Compact Offender Tracking System (ICOTS)” means the web based application used by states to facilitate compact business and as a nationwide offender management system for interstate compact cases.

“Interstate Commission for Adult Offender Supervision” means the organization created by KRS 439.561(1), Article III. See also [www.interstatecompact.org](http://www.interstatecompact.org).

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“Interstate compact administrator” or “compact administrator” is defined in KRS 439.561(1), Article II(C).

“Misdemeanor” means an offender who has a misdemeanor conviction and meets compact eligibility requirements. These sentences must include one year or more of supervision and one or more of the following:

- A. an offense in which a person has incurred direct threatened physical or psychological harm;
- B. an offense that involves the use or possession of a firearm;
- C. a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; or
- D. a sexual offense that requires the offender to register as a sex offender in the sending state.

“Offender” is defined in KRS 439.561(1), Article II(I).

“Plan of supervision” means the terms under which an offender will be supervised, including proposed residence, proposed employment or viable means of support and the terms and conditions of supervision.

“Probable cause hearing” means a hearing in compliance with the decisions of the U.S. Supreme Court, conducted on behalf of an offender accused of violating the terms or conditions of the offender’s parole or probation.

“Receiving state” means a state to which an offender requests transfer of supervision or is transferred.

“Relocate” means to remain in another state for more than forty-five (45) consecutive days in any twelve (12) month period.

“Reporting instructions” means the orders given to an offender by the sending or receiving state directing the offender to report to a designated person or place, at a specified date and time, in another state.

“Resident family” means a parent, grandparent, aunt, uncle, adult child, adult sibling, spouse, legal guardian, or step-parent who:

- A. Has resided in the receiving state for 180 calendar days or longer as of the date of the transfer request; and

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- B. Indicates willingness and ability to assist the offender as specified in the plan of supervision.

“Retaking” means the act of a sending state in physically removing an offender, or causing to have an offender removed, from a receiving state.

“Returning resident” means a person who:

- A. Has continuously inhabited a state for at least one (1) year prior to the commission of the offense for which the offender is under supervision; and
- B. Intends that such state shall be the person’s principal place of residence; and
- C. Has not, unless incarcerated, remained in another state or states for a continuous period of six (6) months or more with the intent to establish a new principal place of residence.

“Rules” is defined in KRS 439.561(1), Article II(K).

“Sending state” means a state requesting the transfer of an offender, or which transfers supervision of an offender, under the terms of the Compact and its rules.

“Sex offender” means an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to register as a sex offender either in the sending or receiving state and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

“Significant violation” means an offender’s failure to comply with the terms or conditions of supervision that, if occurring in the receiving state would result in a request for revocation of supervision.

“Special condition” means a condition or term that is added to the standard conditions of parole or probation by either the sending or receiving state.

“Subsequent receiving state” means a state to which an offender is transferred that is not the sending state or the original receiving state.

“Substantial compliance” means that an offender is sufficiently in compliance with the terms and conditions of his or her supervision so as not to result in initiation of revocation of supervision proceedings by the sending state.

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“Supervision” means the oversight exercised by authorities of a sending or receiving state over an offender for a period of time determined by a court or releasing authority, during which time the offender is required to report to or be monitored by supervising authorities, and to comply with regulations and conditions, other than monetary conditions, imposed on the offender at the time of the offender’s release to the community or during the period of supervision in the community.

“Supervision fee” means a fee collected by the receiving state for the supervision of an offender.

“Travel permit” means the written permission granted to an offender authorizing the offender to travel from one state to another.

“Victim-sensitive” means a designation made by the sending state in accordance with its definitions of crime victim under the statutes governing the rights of crime victims in the sending state.

“Violent crime” means any crime involving the unlawful exertion of physical force with the intent to cause injury or physical harm to a person; or an offense in which a person has incurred direct or threatened physical or psychological harm as defined by the criminal code of the state in which the crime occurred; or the use of a deadly weapon in the commission of a crime; or any sex offense requiring registration.

“Violent offender” means an offender under supervision for a violent crime.

“Waiver” means the voluntary relinquishment, in writing, of a known constitutional right or other right, claim or privilege by an offender.

“Warrant” means a written order of the court or authorities of a sending or receiving state or other body of competent jurisdiction which is made on behalf of the state or United States, issued pursuant to statute or rule and which commands law enforcement to arrest an offender.

## II. POLICY and PROCEDURE

A. All interstate compact actions shall be initiated in the Interstate Compact Offender Tracking System (ICOTS) and the documents generated as a result of these actions shall also be entered into the Department of Corrections offender management system. (2A-16)

B. Interstate Transfer Eligibility Criteria

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An offender under the jurisdiction of the Division of Probation and Parole shall be processed in accordance with the provisions of the interstate compact since it is the sole authority which may permit the planned and organized movement of an offender from state to state for supervision.

1. Eligibility Criteria for Submission of a Mandatory Transfer Request

a. Felons, deferred sentences (pre trial diversion) and misdemeanants as specifically defined may be eligible for compact services.

b. An offender shall be eligible for submission for a mandatory transfer request under the following conditions:

(1) Felony offenders shall have more than ninety (90) calendar days of supervision remaining and misdemeanor offenders shall have at least a one (1) year term of supervision,

(2) Has a valid plan of supervision in the receiving state,

(3) Is in substantial compliance with the terms of supervision in the sending state,

(4) (a) Is a resident of the receiving state, or

(b) Has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision, and can obtain employment or have a visible means of support.

c. Transfer of military members

An offender who is a member of the military and has been deployed by the military to another state, and qualifies for compact services shall be immediately eligible for reporting instructions and transfer of supervision.

d. Transfer of offenders who live with family who are members of the military

An offender who lives with a family member who is in the military and is deployed to another state and qualifies for compact services shall be immediately eligible for transfer of supervision, providing the offender continues to reside in the home with the family member.

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e. Transfer of veterans for medical or mental health services

An offender who is a veteran of the military service and who is eligible for medical and mental health services through the Veterans Health Administration shall be immediately eligible for reporting instructions and transfer of supervision.

f. Employment transfer of family member to another state

Unless the receiving state can show good cause for rejecting supervision, an offender shall be immediately eligible for transfer if the following criteria are met:

- (1) The offender resides with the family member,
- (2) The family member is relocated for employment to another state, and
- (3) The family member's relocation meets the following conditions:
  - (a) The family member is a full time employee of the employer,
  - (b) The relocation is at the direction of the employer, and
  - (c) The relocation is a condition of maintaining employment.

g. Employment transfer of the offender to another state

Unless the receiving state can show good cause for rejecting supervision, an offender shall be immediately eligible for transfer if the following criteria are met:

- (1) The offender is relocated for employment to another state, and
- (2) The offender's relocation meets the following conditions:
  - (a) The offender is a full time employee of the employer,

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(b) The relocation is at the direction of the employer, and

(c) The relocation is a condition of maintaining employment.

## 2. Eligibility Criteria for Submission for a Discretionary Transfer Request

If an offender does not meet eligibility for submission of a mandatory transfer request, the officer may submit a discretionary transfer request, following the transfer submission steps in subsection II. B. 1. The officer shall not grant a travel permit until the transfer request is approved by the receiving state.

3. Transfers may be submitted at the discretion of the sending state, but an offender has no right to transfer supervision to another state.

## C. Interstate Transfer Process

Interstate transfers shall be processed through and administered by the interstate compact administrator, located in Correction's central office. All electronic, verbal and written communications in reference to Compact cases shall be cleared through the interstate compact office.

1. An officer shall not permit a person who is eligible for transfer under the compact to relocate to another state except as provided by the rules. Probationers or parolees eligible for compact services shall not knowingly be allowed to live in another state unless the offender's case is approved through ICOTS.
2. The probation and parole officer shall ensure that the offender signs all forms and that all required transfer information is confirmed prior to granting permission to travel.
3. A probationer, who is a returning resident, may be issued a travel permit not to exceed seven (7) business days from the supervision start date, to allow for the request and issuance of reporting instructions. A copy of the travel permit and request for reporting instructions must be immediately processed to the receiving state. A notice of departure shall be submitted in ICOTS. A sex offender shall not be granted a travel permit until the issuance of approved reporting instructions or transfer request.

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4. The officer shall not grant a travel permit to an offender to the receiving state, unless the offender qualifies for the seven (7) day travel permit as referenced in subsection (3) above. Receiving states have two (2) business days to respond to reporting instructions request and forty-five (45) calendar days to respond to transfer request. Receiving states have five (5) business days to respond to reporting instructions for sex offenders.
5. If the officer determines an emergency exists requiring an emergency transfer to another state, the officer shall complete the following:
  - a. Submit through ICOTS a request for reporting instructions marked expedited, with a justification explaining the emergency situation,
  - b. Submit through ICOTS a transfer request to the receiving state, and
  - c. Enter the documentation in the offender management system.
- D. An officer shall not permit a person who is eligible for transfer under the compact to relocate to another state except as provided by the rules. An officer shall complete an interstate transfer request which shall contain the following:
  1. A completed and signed offender's application for interstate compact services. The original signed copy shall be retained in the case record.
  2. Required transfer information
    - a. Parole certificate, for parolee
    - b. Notice of discharge, for parolee
    - c. Judgment or order of probation
    - d. Conditions of supervision
    - e. Supervision history, unless it does not exist
    - f. Presentence investigations, including narrative description of the instant offense
    - g. Front facing photograph
    - h. Financial obligations, including balance and payment address



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- i. Signed copy of the offender application for interstate compact transfer
- j. If applicable, any information pertaining to victim sensitive matters, sex offender registration, sex offender assessments, victim information (name, sex, age, relationship to offender), and victim statements.
- k. Unless distribution is prohibited by law and, if available, a summary of prison discipline and mental health history during the last two (2) years.

E. Transfer Request from Another State

- 1. If the officer receives a transfer request from another state, the officer shall:
  - a. Investigate within ten (10) business days of receipt, and
  - b. Advise the sending state of acceptance or rejection of supervision.
- 2. If accepted, the officer shall:
  - a. Advise the sending state of acceptance through ICOTS and provide reporting instructions.
  - b. Upon receipt of the notice of departure, monitor arrival of the offender from the sending state.
  - c. Upon offender's arrival, submit notice of arrival through ICOTS, indicating Kentucky's assumption of supervision of the offender.
  - d. If the offender does not arrive, submit the notice of arrival advising the sending state of the offender's failure to report and proceed with submitting a violation report if necessary.

F. Transfer Back to Sending State

If an offender from another state under supervision in Kentucky wishes to transfer back to the sending state and is not under active criminal investigation or charged with a subsequent criminal offense, the officer shall complete the following in ICOTS:

- 1. Request for reporting instructions.

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2. Once approved reporting instructions have been obtained:

- a. Prepare a progress report to the sending state, in reference to pertinent supervision information, if applicable,
- b. Issue a travel permit to the offender to return to the sending state,
- c. Submit notice of departure in ICOTS, and
- d. Submit a case closure notice in ICOTS.

G. Subsequent State Transfers

1. Offender from Another State

- a. If an offender from another state under supervision in Kentucky requests transfer to a subsequent receiving state (third state), the officer shall determine if the offender is:
  - (1) Not under active criminal investigation, or
  - (2) Not charged with a subsequent criminal offense, and
  - (3) In substantial compliance.
- b. If the offender meets the requirements in II.G.1.a., the officer shall complete the following in ICOTS:
  - (1) Assist with the completion of an offender application for compact services. The offender application shall reflect the original sending state information and the subsequent receiving state (third state) information.
    - (a) The offender application shall be submitted in a compact action request.
    - (b) The original signed copy of the offender application shall be mailed to the interstate compact office for processing.
    - (c) A progress report shall be submitted, if applicable.

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- (2) After approved reporting instructions or transfer acceptance has been obtained for the subsequent state transfer:
  - (a) Issue a travel permit to the offender,
  - (b) Notify the receiving state of the offender's departure in ICOTS,
  - (c) Submit a case closure notice in ICOTS, and
  - (d) Enter all documentation in the offender management system.

## 2. Kentucky Offender

- a. If a Kentucky offender being supervised in another state requests transfer to a subsequent state, the officer shall determine if the offender is:
  - (1) Not under active criminal investigation, or
  - (2) Not charged with a subsequent criminal offense, and
  - (3) In substantial compliance.
- b. The officer may submit a transfer request if the officer deems the request appropriate.
- c. If the officer submits the transfer request, the officer shall:
  - (1) Complete the transfer request in ICOTS after seeking assistance with the offender application for compact services from the current supervising state.
  - (2) Check for a progress report in ICOTS delineating the offender's supervision history from the supervising state.
  - (3) After approved reporting instructions or a transfer acceptance has been obtained:
    - (a) Review for a travel permit, a notice of departure, and case closure notice from the sending state.

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- (b) Monitor the relocation of the offender to the subsequent state through issuance of a notice of arrival in ICOTS.

#### H. Compact Supervision

1. The receiving state shall immediately notify the sending state of any special conditions which cannot be imposed or unable to enforce.
2. An inmate compact offender accepted for supervision in Kentucky shall pay a \$25 supervision fee per month.
3. The officer shall inform an offender seeking to transfer to another state that the receiving state determines the supervision fee. Upon acceptance to the receiving state, the officer shall inform the offender that the Kentucky supervision fee is no longer required.
4. For an offender transferred to another state, the sending state officer or staff shall monitor all fines, family support, restitution, court cost or other financial obligations imposed. The officer shall inform the offender how to pay the required fees. Payment information for these monetary obligations shall be recorded in the offender management system.
5. If an offender whose sole condition of supervision is to pay a financial obligation seeks to move to another state, then the offender shall not be transferred through the interstate compact. See CPP 27-12-14 (Offender Travel).
6. Upon accepting the transfer, the officer shall supervise the offender in the same manner as a Kentucky offender. See CPP 27-12-03 (Initial Interview and Intake of New Case).
7. The officer shall provide the sending state a progress report annually. Upon a request from the sending state for an additional progress report, the officer shall submit the requested progress report within thirty (30) calendar days.
8. Major violations as stated in CPP 27-15-03 II. D. shall be submitted to the sending state in ICOTS on a violation report within thirty (30) calendar days. Minor violations as stated in CPP 27-15-03 II. B. and C. may be submitted to the sending state in ICOTS on a progress report.
9. If the officer receives a violation report through ICOTS requesting a warrant or return of the offender to the sending state, the officer shall: [

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- a. Respond to a violation report no later than ten (10) business days.
  - b. Enter a violation report in the offender management system and submit to the releasing authority through the supervisor.
  - c. Enter the warrant in the National Crime Information Center (NCIC) Wanted Person File with a nationwide pick-up radius with no bond amount set.
  - d. Enter the violation report and corresponding action in the offender management system.
10. If the officer receives notice of a minor violation through a progress report, the officer shall determine if further action is warranted. The officer shall enter the progress report and whether action was warranted in the offender management system.
11. If a warrant is issued by the sending state, the officer shall:
  - a. Serve the warrant or forward the warrant to law enforcement for service and arrest.
  - b. If the warrant does not have nationwide extradition, the officer shall refer to the Compact Office for warrant upgrade or removal.
  - c. The officer shall provide the detention facility the signed offender application for interstate transfer as a waiver of extradition.
12. The officer shall serve the notice of a probable cause hearing. The offender may waive a probable cause hearing and admit guilt to at least one (1) of the serious violations or request a probable cause hearing. If the offender requests a hearing, the officer shall schedule a hearing with an administrative law judge. The officer shall submit hearing results or hearing waiver and admission of guilt on a compact action request through ICOTS.
  - a. Probable cause hearing process shall not be required by the receiving state when an offender is convicted of a new felony offense, prompting retaking to the sending state; or
  - b. If the violation is pertaining to the offender's financial obligations, prompting further action by the releasing authority or retaking to the sending state.

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13. If an officer seeks to detain an interstate compact offender without a warrant, the officer shall request approval from the supervisor and notify the interstate compact office.

#### I. Mandatory Retaking

##### 1. Offender Relocating Without Approval

- a. If an offender relocates without approval of the receiving state, the officer shall direct the offender to return to Kentucky within fifteen (15) business days of receiving notice to return.
- b. If the offender does not return to Kentucky as ordered, the officer shall request a warrant that has nationwide extradition, no later than ten (10) business days following the offender's failure to return to Kentucky.

##### 2. Mandatory Retaking Criteria

The following violations qualify for mandatory retaking at the request of the receiving state:

- a. The offender is convicted and sentenced for a new felony offense that occurred while on supervision;
  - b. The offender absconded from supervision;
  - c. The offender has committed three or more significant violations arising from separate incidents that establish a pattern of non-compliance; or
  - d. The violent offender has committed a significant violation.
3. If the receiving state requests Kentucky to retake an offender, the officer shall request a warrant from the releasing authority. When receiving the warrant, the officer shall forward the warrant to the other state for apprehension of the offender through ICOTS or notify the state the warrant has been entered in NCIC. Upon the offender's return to Kentucky, the officer shall proceed with violation proceedings.
  4. If Kentucky requests another state to retake its offender, the officer shall submit a violation report requesting a warrant through ICOTS. Upon receipt of the warrant, the officer shall follow the steps in subsection II. H.

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11. and 12. and notify the sending state when the offender is available for pickup.

#### J. Closing Compact Cases

An officer shall submit a case closure notice in ICOTS under the following circumstances:

1. Expiration is reached or the offender is released from supervision.
  - a. Cases being supervised in Kentucky for other states shall not be eligible for in-active supervision. Only requests for early discharge shall be submitted to the releasing authority in the sending state.
  - b. Case closure shall occur only after the sending state confirms that a final discharge from supervision has been granted to the offender or expiration of sentence has been reached.
2. Offender absconds.
3. Notification of imprisonment for a period exceeding 180 calendar days.
4. Notification of death (submit available documentation).
5. Offender returns to sending state with approved reporting instructions.
6. Offender is approved for subsequent state transfer.
7. Offender is convicted of a subsequent felony offense.
8. Offender has been retaken.